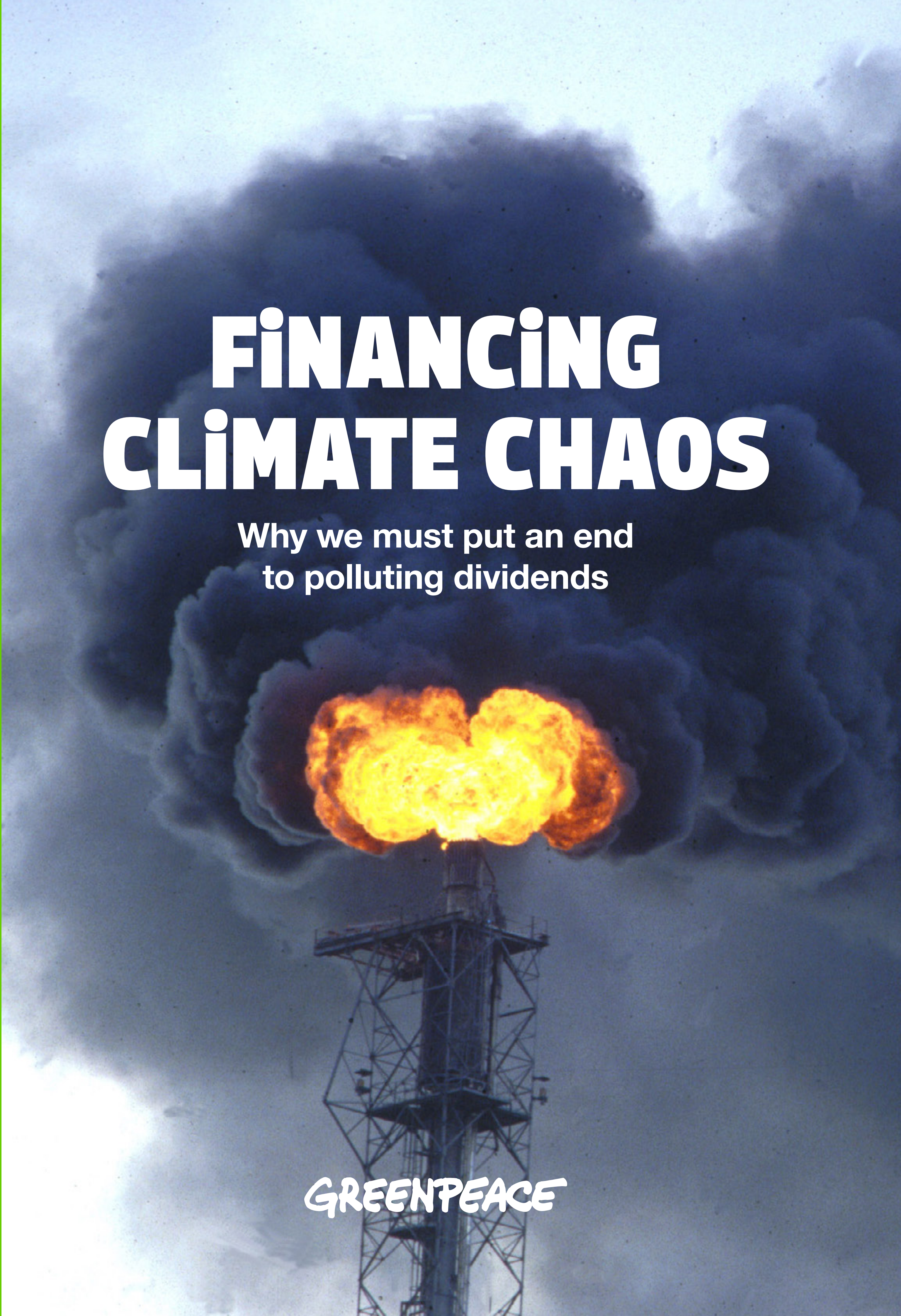

FINANCING CLIMATE CHAOS

Why we must put an end to polluting dividends

GREENPEACE

Greenpeace is an international organisation
which uses non-violent confrontation to protect
the environment and biodiversity and to promote peace.
It is independent from all economic and political powers
and draws from a committed citizen movement to build
a sustainable and fair world.

Published in **May 2020** by Greenpeace France

Contact: clement.senechal@greenpeace.org

Greenpeace France
13 rue d'Enghien, 75010 Paris

"Shareholders want to be sure of their dividends in the long-term."

Patrick Pouyanné, CEO of Total

"Insanity is doing the same thing over and over again
and expecting different results."

Albert Einstein, scientist

Table of contents

Abstract

In this report, Greenpeace France provides an overview of the incompatibility between the neo-liberal economic model and financial capitalism on one hand and the objectives of the Paris Agreement on the other. In particular, Greenpeace France highlights the key role that multinationals and financial markets play in greenhouse gas (GHG) emissions which are the root of climate change. Despite France's ratification of the Paris Agreement, which encourages States to make provisions in their national economy to reduce GHG emissions, the legislations introduced to date by governments mindful of not harming market interests have broadly waived this increasingly blatant necessity, that of regulating the private sector through coercive laws. In fact, there is currently no legal provision which actually obliges companies to reduce their GHG emissions. As long as this is the case, France will remain unsuccessful in reaching the climate objectives it has set itself. **Enforcing the Paris Agreement among companies is a question of political urgency.**

This situation is becoming even more urgent in these times of economic crisis, linked to the health crisis triggered by the coronavirus pandemic. The economic recovery decisions made will commit the country's climate pathway for many years to come, and may well trap us in carbon-intensive pathways with high levels of inertia. It is time to wind up sectors with high carbon footprints and to develop those which are among the solutions. At a time when many multinationals are going cap-in-hand to the State to receive assistance, re-engaging with the old neoliberal approach of socialising losses and privatising profits, political leaders must enforce unparalleled environmental efforts on companies which pollute.

The health crisis and the material and financial requirements that it is causing is an opportunity for us to consider how effort is shared across society, as well as the social utility of financial flows and the political purpose of productive activities, in particular, the practice of dividend payments[1] and the perpetual enrichment of major shareholders, which appears to be highly inappropriate in a period of economic recession. These questions are

[1] Greenpeace France and the authors of the opinion piece "Plus jamais ça !", published on 27 March 2020, (including Attac, the CGT, Friends of the Earth France and Oxfam) demand in particular a formal prohibition of the payment of dividends in 2020, so that financial flows can be used above all to preserve jobs and salaries. While the competent Minister of the Economy, Bruno Le Maire, has publicly called for companies to exercise "moderation" (24 March 2020) in dividend payments, or even not to make any for those which would like to claim forms of State assistance, no binding legal provision has been adopted to date by the government. Only a circular from the Ministry of the Economy dated 23 April 2020 intended for the Treasury has stated that for the carrying forward of expenses and guaranteed State loans, "companies must not be able to claim State support if they pay out dividends, conduct share buybacks or are registered in or have a subsidiary with no economic substance in a non-cooperative State for tax purposes". Total has therefore continued to pay its shareholders (1.8 billion euros in March) despite the collapse of oil price and a potential loss of 9 billion dollars, and the Vivendi Group has decided in April to increase their dividends by 20% increase while it has fully benefited from State assistance via short-time work with, what's more, results for the first quarter of 2020 recording a 11.9% increase. See: https://www.vivendi.com/analystes-investisseurs/communiques-de-presse/vivendi-chiffre-daffaires-premier-trimestre-2020/; "Vivendi augmente son dividende malgré la crise du coronavirus", *Les Echos*, 20 April 2020.

raised in the same way by the environmental crisis. At a time when the need to change economic model has become more pressing, it is time to ensure that public powers at last shoulder their political responsibility on this front.

To achieve this, Greenpeace France proposes getting to the crux of the matter: capital. While the financial markets continue to reap profits by investing their money in economic activities that emit high levels of greenhouse gases, there is no reason for a carbon-free economy to emerge. **We therefore question the current practice of growing capital through the destruction of the planet,** and more broadly the logic of an accumulation system which deliberately endangers all people, starting with the most vulnerable, while the scientific truth on the consequences of climate change is now widely known and accessible.

Greenpeace France therefore proposes that the option of paying dividends to shareholders should be prohibited for companies with business activities in breach of the Paris Agreement. To do so, a cross-cutting law should be adopted which sets emission reduction objectives for all companies, starting with those concerned under the French Duty of Vigilance Law, i.e. the largest[2], and the necessary amendments should be made to the French Environment Code to specify the penalties applicable in the event of non-compliance with these objectives. In order to control the proper implementation of this provision, Greenpeace France proposes the establishment of a body of environmental commissioners and an independent administrative authority with the powers to investigate, prosecute and sanction. In this way, the toxic link between financial markets and climate-destroying activities will be broken.

[2] Adopted in February 2017, the French Duty of Vigilance Law applies to all companies which employ, at the end of two consecutive financial years, at least five thousand employees within the company head office and its direct and indirect subsidiaries whose head office is located on French territory, or at least ten thousand employees within the company and its direct and indirect subsidiaries, whose head office is located on French territory or abroad. This represents around 150 to 250 companies according to the French High Council for Economy, Industry, Energy and Technology.

Summary table of carbon emissions and dividends paid by the ten most polluting companies listed on the CAC 40 (according to available data).

CAC 40 Companies[3]	CO_2 emitted (million metric tons)[4]	Dividend paid (€M)[5]	CO_2eq emitted per dividends paid (metric ton/€100)	Market Capitalisation (€M) end of 2018[6]	Kg of CO_2eq emitted in 2018 per euro invested by shareholder
ArcelorMittal	203	204	99.71	18,537	10.96
BNP Paribas	782	3,756	20.83	49,300	15.87
Crédit Agricole	585	1,962	29.81	27,000	21.67
Engie	208	2,677	7.78	30,527	6.82
Michelin	143	668	21.45	15,593	9.20
PSA	83	706	11.75	16,871	4.91
Renault	100	1,050	9.51	19,653	5.08
Société Générale	505	1,759	28.73	22,500	22.45
Total	444	6,225	6.7	121,900	3.64
Veolia Environnement	50	478	10.52	10,155	4.95
Combined total for the 10 companies[7]	**3,104**	**19 ,885**	**-**	**332,036**	**-**
Total for CAC 40	**3 ,266**	**51,294**	**-**	**-**	**-**

[3] This column lists the ten CAC 40 companies that emitted the most CO_2eq in 2018, according to available data.
[4] This column offers a carbon footprint for the companies calculated on the basis of available data for 2018 (scopes 1, 2 and 3, see table, p. 13). With the exception of scope 3 for banks, all environmental data comes from companies' reference documents.. Scope 3 for banks comes from the report *La colossale empreinte carbone des banques : une affaire d'État*, Oxfam and Friends of the Earth France, November 2019 (implying a drastic upward correction, as banks usually don't account for the carbon footprint of their financial activities).
[5] Amount of dividends for the 2018 financial year. Due to heterogeneous data regarding the global amount of dividends distributed in financial year 2018, we have calculated them by multiplying the number of shares in 2018 per the dividend per share (including exceptional dividends when applicable). We used data from financial analysis company AlphaValue, which collates data published by companies.
[6] Number of company's shares multiplied by the market share price as of 31th December 2018.
[7] Warning : for the 10 companies and the CAC 40, some emissions are accounted for several times under scope 3 (indirect emissions). For example, banks' indirect emissions are also accounted for in the carbon assessment of the companies they finance.

BNP Paribas was responsible for around 782 million metric tons of CO_2 equivalent in 2018 (1st column), which was the highest carbon footprint of CAC 40-listed companies. In addition, it paid out more than €3 billion in dividends over 2018 (2nd column). The carbon footprint for €100 of dividends paid by BNP Paribas to its shareholders is 20.83 metric tons CO_2 equivalent (3rd column). On the stock market, the bank accounted for more than €49 billion at the end of 2018 (4th column). This means that each Euro invested in the company by a shareholder generates more than 15 kilograms of CO_2 equivalent (5th column).

Banks' carbon footprints generally exceed those of other companies despite the fact that they do not produce any tangible goods. This is because the role of banks is (partly) to finance and invest in other companies; through these activities, included in the scope of so-called "indirect" emissions (scope 3), they recoup a large proportion of other companies' scopes in their own balance sheets. This is a kind of leverage effect on emissions, which demonstrates the key role of finance t in tackling climate change.

Also, if the carbon footprints of some companies' *dividends* appear surprisingly low compared to others, this is simply because they pay a lot of dividends (which decreases the ratio of CO_2 per dividend, but not the total emissions of the company!) This is, for example, the case for Total.

More generally, due to a lack of a rigorous methodology, public control and law, **companies' carbon footprints are generally undervalued**. Such an assessment is at the discretion of companies (who only have the obligation to update it every 4 years).

Introduction

Today, everyone is able to have some insight into climate change. Increasing numbers of extreme climate events are occurring, with their share of human tragedy: droughts, storms, floods, massive fires, etc. France has not been spared as it is now experiencing repeated periods of heatwaves, major storms and frequent flooding. Record temperatures were recorded in the country in June 2019, with one reading at 46°C. Citizens are starting to feel climate change physically and are increasingly making the connection with the current economic system and political leaders. During the May 2019 European elections, the fight against global warming was in top position of voters' expectations[8].

It must be said that the issue is of the utmost urgency: CO_2 emissions continue to rise, the commitments made by countries which signed the Paris Agreement put us, at best, on a pathway of 3.2°C[9] by the end of the century, and even a temperature rise of more than 7°C over the same timeframe if the current pathways are continued[10]. The latest "Emissions Gap Report" by the UN[11] highlights the growing gap between States' objectives and their actual results in terms of GHG emission mitigation, calling for a 7.6% reduction each year between 2020 and 2030 on a global level and bemoaning "another decade lost".

This concerns France, as the Ministry for the Ecological and Inclusive Transition (MTES) confessed that the carbon footprint in France is not compatible with limiting the rise to 2°C[12] by the end of the century. France also exceeded its carbon budgets (i.e. the maximum quantity of CO_2 emissions set by sector) by 4.5% in 2018 and is cutting its emissions more slowly than the European average. Lastly, according to the Haut Conseil pour le Climat[13], imported emissions (i.e. emissions generated in countries which export goods consumed in France) continue to rise. If we include them in France's carbon footprint, it has been stagnating since 1995[14]. More than two decades lost. According to a report by the NGO Germanwatch[15], France is, however, one of the countries most exposed to climate change over the last twenty years (1999-2018), ranking 15th worldwide. In terms of the number of deaths in relation to the total population, it even ranks 4th, and 12th in terms of economic losses.

[8] "Le climat, priorité européenne des Français", *Libération*, 8 May 2019.
[9] *Emissions Gap Report 2018*, UN Environment, 27 November 2018.
[10] "Climat, le CNRS envisage une augmentation des températures plus importante que prévu", *La Croix*, 18 September 2019.
[11] *Emissions Gap Report 2019*, UN Environment Programme, 26 November 2019
[12] "L'empreinte carbone des Français reste stable", Commissariat général au développement durable, January 2020.
[13] "Agir en cohérence avec les ambitions", Haut Conseil pour le Climat, June 2019.
[14] Gaz à effet de serre : la France sur la mauvaise pente", *Le Monde*, 23 January 2018.
[15] *Global Climate Risk Index 2020*, Germanwatch, December 2019.

This reality has not escaped French citizens and, according to a survey[16] conducted by economist Philippe Moati and published in November 2019, when they are asked about their preferences regarding the different possible models of society for the future, a majority of them support "an ecological utopia" based on reduced but better-quality consumption, rather than a "security utopia" and a "techno-liberal utopia", the latter being an extension of the current economic model.

This awareness was reinforced by a survey published[17] in time for the Davos Economic Forum in January 2020, which brought together the world's economic elites. The study showed that 56% of people polled in 28 developed countries believe that capitalism "does more harm than good". Whereas the global risks report[18], published each year to prepare the discussions for the global Forum, has placed ecological issues in the top five places for the first time, it appears that citizens have clearly identified the negative consequences of the current capitalist and neoliberal system.

Similarly, a poll published by *Libération* on 31 March 2020[19], after the start of the health crisis, shows that a majority of the population is in favour of: a relocation of a maximum of industries in Europe (84%), **a reduction of the influence of finance and shareholders on corporate life (70%),** a slowdown in productivism and the constant search for profitability (69%) and the nationalisation of strategic activities for the country's future (68%). In short, the French are currently in favour of a dismantling of the neo-liberal paradigm.

Emmanuel Macron himself, although he is not known for anti-capitalist radicalism, declared, at the UN Climate Action Summit on 23 September 2019: "On the financial level, we need to be consistent with our actions. This concern for coherence is to stop financing external carbon infrastructure projects. We cannot say here we are fighting against global warming, for biodiversity, and continue to finance in other countries infrastructures that pollute, which increase CO_2 emissions, and that do exactly the opposite." The following day, he restated at the United Nations General Assembly that "contemporary capitalism is dysfunctional". "Ultra-liberal and financial capitalism is coming to an end", he predicted during his New Year address to the French on 31 December 2018. In June 2019, speaking at the International Labour Organisation, he once again insisted that capitalism has "gone mad".

With the health crisis in full swing, the French President relapsed in the columns of the Financial Times[20], arguing that the coronavirus crisis will "*change the nature of globalisation, with which we have lived for the past 40 years [...] and which was all about faster and faster circulation and accumulation [...]. It was clear that this kind of globalisation was reaching the end of its cycle, it was undermining democracy*". For Emmanuel Macron, this crisis marks out "*a moment of truth, which is to decide whether the European Union is a political project*

[16] Philippe Moati: "L'utopie écologique séduit les Français", *Le Monde,* 22 November 2019.
[17] Edelman Trust Barometer 2020, January 2020.
[18] "Davos 2020 : les risques pour le climat au cœur des débats", *Forbes*, 16 January 2020.
[19] "Après l'épidémie, les Français rêvent d'un autre monde", *Libération*, 31 March 2020.
[20] "FT Interview: Emmanuel Macron says it is time to think the unthinkable", *Financial Times*, 16 April 2020.

or just a market project." He also stated his belief that this "*hyper-financialised*" world must be put to an end to save the planet and stop the ravages of climate change: "*no one hesitates to make very profound, brutal choices when it's a matter of saving lives. It's the same for climate risk*".

Yet another call to arms to combat the abuses of the neo-liberal economic system and to regulate global finance, which remains unfulfilled. As part of the draft amending finance law (PLFR) specifying the exceptional State support to curb the economic crisis related to the COVID-19 pandemic, an envelope of €20 billion of public funds has been granted by the government and its majority to a list of polluting multinationals without the slightest social or environmental counterpart, despite warnings from Greenpeace France[21], Friends of the Earth France and Oxfam. The Haut Conseil pour le Climat also called for the government to condition all support on the adoption of a mandatory emission reduction pathway[22]. It would appear that the "world after"[23] promised by Emmanuel Macron in his first presidential address on the health crisis has been confused with the world before (but worse)[24].

Emmanuel Macron's double-speak on the climate challenge is constant, and has even ended up raising concerns among the scientific community. This is why, at the end of February 2020, 1000 scientists from various disciplines published an opinion piece in Le Monde[25] calling for citizens to join in the civil disobedience actions carried out by environmental associations, including Greenpeace France, in response to the conservatism of political decision-makers. In particular, they spoke out about the "hypocrisy of politicians who want to enforce sobriety on citizens while promoting unbridled consumerism and unequal predatory economic liberalism", and reminded that "infinite growth on a planet with finite resources is simply a dead end" – a truism, which has not yet produced any solution from the French public authorities.

In response to the (unfulfilled) statements of the French President, Greenpeace France proposes a clear and radical measure to regain control over "contemporary capitalism": to subject major companies to the objectives resulting from the Paris Agreement through legislation, and to prohibit them from paying dividends to their shareholders if they continue to conduct businesses that significantly contribute to climate change. This paper sets out the motives of this proposal and the means with which it can be achieved.

---

[21] L'Assemblée nationale s'apprête à signer un chèque aux grands pollueurs, sans conditions, Greenpeace France, 17 April 2020.
[22] Special report of the Haut Conseil pour le Climat, "Climate, health: better prevention, better healing", 22 April 2020. "*Granting of budgetary measures or fiscal incentives for private actors or local authorities should be clearly subordinated to the explicit adoption, by these actors, of investment plans and perspectives compatible with low-carbon trajectory and the multi-annual program for energy."* p. 5.
[23] "The day after, when we've won, it won't be a return to the day before", he promised during his address on Monday 16th March 2020.
[24] Projet de loi de finances rectificative (PLFR) : l'écologie toujours pas au programme du monde d'après, Greenpeace France, 18 April 2020.
[25] The call from 1000 scientists: "Face à la crise écologique, la rébellion est nécessaire", *Le Monde*, 20 February 2020.

"The tragedy of the horizon"

Here, we are looking at the second variable of the "tragedy of the horizon" theorised in 2015 by the former governor of the Bank of England, Mark Carney, to define the stakes of the climate challenge for the financial sector, namely a swift depreciation of assets for the investors who refuse to take into account the changes to public policies made necessary by the climate crisis (such as the end of fossil fuel use, for example)[26]. The two other variables which could result in a swift depreciation of these assets are: the legal risk for asset managers to be held legally responsible for the effects of their portfolio's composition on the climate, and the actual physical impacts of climate change.

[26] Notified in particular in French Decree No.2015-1850 dated 29 December 2015 on the basis of article L. 533-22-1 of the French Monetary and Financial Code concerning portfolio management companies ("transition risks, defined as the exposure to changes caused by the transition to a low-carbon economy").

The multinationals which disrupt the climate and have never made such a profit out of it as now

Total and French banks: climate criminals and dividend aces

In France, on the basis of available data[27], only 13 of the 40 companies listed on the CAC 40 actually reduced their greenhouse gas emissions between 2016 and 2018[28].

Emission calculations, scopes… definitions

Various methods exist for the measurement of companies' carbon footprints, which vary according to the selected greenhouse gas emissions scope. The main international standards (in particular ISO 14069) define 3 emission categories:

- **Scope 1** which includes direct emissions from stationary or mobile facilities or equipment belonging to the company, such as machines.
- **Scope 2** which covers indirect emissions related to energy consumption imported by the company (electricity, heat, steam).
- **Scope 3** which covers indirect emissions, i.e. those occurring upstream in the company's value chain (for example, the purchase of raw materials) and those occurring downstream, when users

[27] This figure is optimistic as very few companies publish reliable data for scope 3.
[28] *CAC 40 : le véritable bilan annuel 2019*, Observatoire des multinationales, September 2019.

consume the product placed on the market. It also includes emissions related to the company's staff movements.

For further information: www.bilans-ges.ademe.fr/en

At the same time, prior to the COVID crisis, the amounts of dividends paid out by these multinationals have increased constantly, reaching record levels last year since the 2008 crisis. According to *Les Echos*[29], "At €60 billion [including share buy-backs], the liquid assets paid back to CAC 40 shareholders exceed the record level of 2007. They are up 12% on last year." If we look at the situation according to the indicator of the distribution rate (i.e. the percentage of profits made by a company that is distributed to shareholders as dividends), this is even more blatant: while the average distribution rate in 2019 for CAC 40-listed companies was 47%, the companies which pollute the most recorded rates that were vastly greater than this average (Total 75%).

Who is topping the list for their generosity to shareholders? Total, with €6.6 billion dividends redistributed to its shareholders for the fiscal year 2018. According to Notre Affaire à Tous, 350 and Friends of the Earth France[30], in 2018, Total paid out $9.2 billion in organic investments[31] in the production of oil and gas, against only $0.5 billion in the sector (inappropriately) described as "low carbon", namely liquefied natural gas (LNG) and electricity generation based on gas and renewable energy sources. In other words, neither the Paris Agreement nor the climate crisis are currently influencing Total's investment policy [32], which is in total contradiction with its commitments supposedly compatible with a 2°C pathway[33]. Total's business, however, resulted in the emission of at least 444 million metric tons of CO_2 equivalent in 2018, a volume corresponding to the total emissions for France (445 $MtCO_2$, according to the SNBC).

Positioned right at the heart of the financial system, the main French banks are contributing just as much to the current issue. According to Oxfam and Friends of the Earth France, "in 2018, greenhouse gas emissions from the financing and investment activities of the four

[29] "CAC 40 : versements record aux actionnaires en 2019", *Les Echos*, 9 January 2020.
[30] "Total ou la stratégie du chaos climatique", Notre Affaire à Tous, 350, Friends of the Earth France, May 2019.
[31] Investments in existing activities. This therefore excludes the acquisition of new activities.
[32] Let us stress that according to a study conducted by the Institute for Energy and Financial Analysis, between 2010 and 2018, ExxonMobil, BP, Chevron, Total and Shell paid out a total of $536 billion in dividends to their shareholders. Over the same period, these five companies only generated $329 billion in free cash flow. In other words, oil companies are paying shareholders dividends which are much higher than what they can actually afford, which demonstrates their toxic addition to financial capital.
[33] "Integrating climate into our strategy", Total, May 2017.

main French banks – BNP Paribas, Crédit Agricole, Société Générale and BPCE – in the fossil fuel sector reached more than 2 billion metric tons equivalent CO_2, i.e. 4.5 times the total emissions for France in the same year. Each of the three leading French banks have an individual carbon footprint that is greater than that of France"[34]. And yet, these four banks paid their shareholders a total of about €8 billion in dividends for financial year 2018.

Almost five years after the adoption of the Paris Agreement, **investing capital in the destruction of the climate is still a major revenue generator, and this is increasingly becoming the case.** According to our calculations, €100 of dividends from ArcelorMittal is equivalent to 99.6 metric tons carbon equivalent: this is the highest dividend carbon footprint of the CAC 40 (mainly because the pays comparatively lower dividends to its shareholders, which mathematically speaking increases the carbon footprints of these dividends). This means that €100 of dividends from ArcelorMittal is equivalent to around one hundred return flights between Paris and New York for one passenger (according to the French Directorate-General for Civil Aviation[35], a return flight between Paris and New York is equivalent to 1 tCO_2eq). As regards banks: 28.7 tCO_2eq for Société Générale (almost 30 return flights for €100 of dividends), 29.8 tCO_2eq for Crédit Agricole (more than 29 return flights from Paris to New York for €100 of dividends) and 20.8 tCO_2eq for BNP Paribas (more than 20 return flights from Paris to New York for €100 of dividends). For energy providers, the figures are 7.8 tCO_2eq for Engie (more than 8 return flights for €100 of dividends) and 6.7 tCO_2eq for Total (almost 7 return flights from Paris to New York for €100 of dividends). Lastly, €100 of dividends from Renault or PSA is equivalent to about 10 return journeys between Paris and New York.

For the first four companies listed above, one shareholder who receives €100 in dividends would therefore have a carbon footprint greater than the average French citizen in one year (12.2 tCO_2eq). **The dividends paid by multinationals therefore have a huge and dramatic impact on climate.**

---

[34] *La colossale empreinte carbone des banques : une affaire d'État*, Oxfam and Friends of the Earth France, November 2019.
[35] This is a relatively conservative estimate as it only takes into account the emissions related to fuel consumption. The French Agency for the Environment and Energ**y** Management **(**Ademe) suggests multiplying this by a factor of two due to the disruption of cycles relating to other GHG: water vapour, condensed water in various forms, NO_x and methane.

The incompatibility of financial capitalism and climate emergency

While on the one hand activities which destroy the climate are well remunerated, on the other hand, according to I4CE[36], €15 to €18 billion in additional annual investment in the ecological transition are still lacking[37] to fulfil the (insufficient) GHG emission reduction objectives defined in the second carbon budget (2019-2023) of the French national low carbon strategy (SNBC). According to the French Energy Management Agency (ADEME), "finance, too, must change, by refocusing investment to assets that promote climate protection. Such investments must be increased to reach €50 to €70 billion per year by 2030."[38] The Haut Conseil pour le Climat[39] stresses that the investments made in France from 2015 to 2018 are not compatible with the current climate objectives, and listed €75 billion (public and private aggregate figures) of investments harmful to the climate, against only €41 billion which instead are climate friendly, resulting in a considerable negative balance.

By means of comparison, the climate-destroying dividends paid by the five CAC 40 companies with the highest emissions (according to the figures disclosed by these companies: BNP Paribas, Crédit Agricole, Société Générale, Total and Engie) exceed €16 billion for financial year 2018[40], i.e. the same order of magnitude as the annual deficit in investments in the ecological transition in France.

On a global level, since the signature of the Paris Agreement, thirty-three major banks have collectively invested $1900 billion in fossil fuels. Twenty-four of these banks took part in the 2019 annual meeting of the Davos Global Economic Forum. In a report published by Greenpeace International[41] to coincide with the 2020 Davos Forum, we demonstrated that these twenty-four banks financed fossil energy sources up to $1400 billion between the adoption of the Paris Agreement in 2015 and the end of 2018. This represents what the 3.8 billion poorest people in the world earned in 2018. Similarly, three pension funds, which had representatives present in Davos in 2019, hold at least $26 billion in fossil fuel companies (Shell, Chevron and Exxon, to name but three)[42] and in banks linked to fossil fuels such as JP Morgan Chase, Bank of America and Royal Bank of Canada.

---

[36] 2019 Edition of the Landscape of Climate Finance, I4CE, October 2019. Another report, submitted to minister François de Rugy on 19 December 2018 (commissioned by his predecessor) puts forward the same order of magnitude, with €10 to €30 billion in additional investment required for 2018. Cf " Pour la création de France Transition".
[37] Another report, submitted to minister François de Rugy on 19 December 2018 (commissioned by his predecessor) puts forward the same order of magnitude, with €10 to €30 billion in additional investment required for 2018. Cf " Pour la création de France Transition".
[38] Ademe, rapport d'activité 2018. Agir en cohérence avec les ambitions, *op. cit.*
[39] Agir en cohérence avec les ambitions, *op. cit.*
[40] Cf. our table on page 5.
[41] Cf. *It's the finance sector, stupid*, Greenpeace International 21 January 2020.
[42] *Ibid.*

Against this backdrop, it is not surprising that a report commissioned by the UN[43] in August 2018 stated a simple observation: **"the current development model (...) is leading the planet to tipping points, in particular for the climate system and the loss of biodiversity".** This echoes the 1972 Meadows report, which highlighted the "limits of growth" in a world with finite natural resources. In October 2018, the IPCC published its Special report 1.5°C[44] which calls on signatory states of the Paris Agreement, in which it recommends "systemic transitions", stressing the key role of financing. In December 2019, the European Environment Agency (EEA) warned in an alarming report that continued growth was incompatible with environmental protection and called for fundamental changes in "the core systems that shape the European economy and modern social life – especially the energy, mobility, housing and food systems".[45] The Financial Times also pointed out in October 2019 the "myth of green growth"[46], estimating that **our "generation has to choose: we can be green or we can have growth, but we can't have both together".**

Along these lines, in January 2020, the Bank for International Settlements published a catastrophic scenario[47] called Green Swan, on the consequences of climate change for the global economic system, denouncing the blindness of the financial markets when it comes to climate issues. A little later, in February 2020, an internal memo revealed by the *Guardian* [48] and written by two economists of British bank JP Morgan, one of the banks most exposed to fossil assets in the world, clearly states markets' failure to react correctly to the threat of climate change and calls for enhanced public regulation to remedy this. A first step.

Therefore, the excesses of financial capitalism are now broadly challenged by international institutions and financial media. Yet for now this has not been reflected in public policy.

---

[43] Global Sustainable Development Report 2019, Paavo Järvensivu, Tero Toivanen, Tere Vadén, Ville Lähde, Antti Majava, Jussi T. Eronen, 14 August 2018.
[44] IPCC, 2018: Summary for decision-makers, Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)]. World Meteorological Organization, Geneva, Switzerland, 32.
[45] *Europe's state of the environment 2020: change of direction urgently needed to face climate change challenges, reverse degradation and ensure future prosperity*, European Environment Agency, 16 December 2019.
[46] "The myth of green growth", *The Financial Times*, 24 October 2019.
[47] *The green swan: Central banking and financial stability in the age of climate change*, Patrick Bolton, Morgan Despres, Luiz Awazu Pereira Da Silva, Frédéric Samama, Romain Svartzman, January 2020.
[48] "JP Morgan economists warn climate crisis is threat to human race", *The Guardian*, 21 February 2020.

A complicit government

Despite all his fine words about climate, capitalism or finance, Emmanuel Macron and his majority have heightened the excesses of an economic model which is incompatible with the fight against climate change, and also continues to exacerbate inequalities[49]. On one hand, the wealthy and the multinationals, which are the main drivers of climate change with a carbon footprint which far exceeds that of poorer households[50], have benefited from a number of tax measures (flat tax, reductions in corporate tax, elimination of the wealth tax, extension of the CICE tax credit for competitiveness and employment in the form of an easing of administrative burdens and work orders). On the other hand, no new obligation is enforced for these economic players which happily continue to ignore the climate emergency.

The poor application of the Paris Agreement

More generally, the necessary structuring measures have not been implemented by the government to reduce French GHG emissions[51]. **Emmanuel Macron has always refused to move from words to deeds when it comes to creating a coercive framework for the economy,** preferring instead singling out citizens for whom awareness must be raised (or blaming them), or encouraging the roll-out of new voluntary tools for companies (labels, etc.) which everyone knows are insufficient today[52].

[49] Analysing the first three budgets of the Macron era, the conclusions of the French Economic Observatory (OFCE) are striking: "Out of the €17 billion distributed to households since the beginning of Macron's five-year term, more than a quarter (around €4.5 billion) has gone towards supporting the disposable income of the wealthiest 5% of households", cf "Avec la politique économique de Macron, "les 5 % de Français les plus pauvres devraient voir leur niveau de vie se réduire"", *Le Monde*, 5 February 2020.
[50] According to the scientific magazine *Nature*, the lifestyle of the richest 0.5% of the population emits as much CO_2 as that of the poorest 50%, on a global level. In France, the economist Jean Gadrey estimates that the richest 10% emit around forty times more than the poorest 10%, cf "En France, les très riches émettent 40 fois plus de carbone que les pauvres, mais les pauvres paient plus de 4 fois plus de taxe carbone en pourcentage de leurs revenus !" , *Alternatives économiques*, 20 November 2018. In addition, according to the World Social Report published by the UN in January 2020, climate change is one of the key factors of rising inequality in the world
[51] Bilan d'Emmanuel Macron sur le climat : Le grand écart entre discours et petits pas, *Réseau Action Climat*, 10 January 2020.
[52] For example, in its report "Final Countdown" (September 2018), Greenpeace International showed how the "zero deforestation" commitments made by industrial players in the agri-food sector in recent years have not been respected, as they proved to be ineffective.

The Paris Agreement states, however:

Developed country Parties should continue taking the lead by undertaking economy-wide absolute emission reduction targets. Developing country Parties should continue enhancing their mitigation efforts, and are encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances.[53]

Yet the new government climate roadmap (the SNBC) sets objectives below the scientific recommendations and authorises France to emit more GHG in the short term than initially planned in the 2015 French law on the energy transition and green growth. In addition, it fails to cover more than one third of the emission reductions targeted by corresponding public policies[54].

While carbon taxation exists in France since 2014, in the form of a carbon component incorporated in various domestic consumption taxes, it is mainly a burden for households, in an indiscriminate way. It is commonly called “carbon tax”[55]. Following the yellow vest movement, its increase has been suspended until the end of the president’s five-year term. But the government has not replaced it with an equivalent scheme, which contributes to making the fulfilment of our climate objectives impossible[56]. The moral of the story is that it is absolutely necessary to place social justice at the centre of the ecological transition, as the most vulnerable cannot pay the cost of climate change which is in the main caused by the wealthy. **The issue of sharing the burden, which is key during international negotiations, cannot be denied on a national scale.**

Furthermore, it may be a good idea to conduct a little exercise: if a “financial” carbon tax were applied to companies in proportion to the carbon footprint of dividends paid, some CAC 40 companies would simply be incapable of paying any dividends to their shareholders. At its current level (frozen since the yellow vest movement in 2018), the carbon tax is set at €44.60 per tCO_2eq. This means that when the carbon footprint of dividends exceeds 2.2 tCO_2eq per €100, the amounts paid would simply be zero. Yet this is the case for around one quarter of CAC 40 companies, including Total, ArcelorMittal, BNP Paribas, Crédit Agricole, Société Générale, Renault and Saint-Gobain.

[53] Art. 4.4
[54] “Stratégie nationale bas carbone : 35 % de la baisse des émissions n’est couverte par aucune politique publique”, *AEF info*, 21 January 2020.
[55] In practice, this groups together the domestic consumption tax on energy products (TICPE), on natural gas (TICGN) and on coal (TICC).
[56] The Réseau Action Climat, of which Greenpeace France is a member, proposes to replace the carbon tax with a climate solidarity contribution. Part of the revenues would be redistributed to the poorest 50% of households.

The lack of meaningful restrictions for companies

In France, major companies are not obliged to reduce their GHG emissions. They must simply publish a carbon report as part of their regulatory information[57], in which they assess their carbon footprint (including indirect emissions for "major items") and must produce "a summary of actions planned to reduce their greenhouse gas emissions"[58]. **They are not obliged, however, to actually reduce the absolute value of their emissions, and no sanctions are in place should they fail to comply.**

In addition, companies remain relatively free with regard to how their conduct the assessment (even though they are supposed to explain the selected approach): **no specific method has been enforced by the State, with the exception of a few recommendations[59].** This results in assessments that are not particularly reliable and which vary greatly from company to company, in terms of content and soundness[60], if only for the thorny issue of emission items that must be considered to be major, or the size of the value chain segment to be taken into account (how far upstream?). This makes the evaluation and comparability of these assessments relatively unreliable to date.

---

[57] Article 75 of the French Grenelle Act (2009) provides that organisations must produce a GHG assessment (companies, local and regional authorities and public bodies). Article 173 of the French Law on the energy transition and green growth (LTECV) states that some companies must also take into account emissions resulting from the "use of the goods and services it produces" (subparagraph IV) and the implementing decree states that they must mention the "major items of greenhouse gas emissions generated through the company's activity, in particular through the use of the goods and services it produces" (Decree No. 2017-1265 dated 9 August 2017), which reinforces the focus on indirect emissions. Similarly, some players are supposed to justify their mitigation plans (art. L. 229-25 of the French Environment Code). In addition, article L. 229-25 of the French Environment Code also states that only companies with more than 500 employees are obliged to conduct a carbon assessment (and article L. 225-102-1 of the French Commercial Code, which "extends the scope of required information to major items of direct and indirect emissions, across the company's entire value chain, i.e. upstream and downstream of its activity", only concerns listed companies and French companies or French subsidiaries of foreign companies with more than 500 employees and whose balance sheet or turnover exceeds €100M).

[58] Ibid. The vagueness and weakness - or excessive caution - in the legislative language used here is notable. It carefully avoids targeting the mitigation measures actually implemented by companies, as well as specifying the expected results, i.e. assessing the actual results

[59] *Recommandations pour la détermination des postes significatifs d'émissions de gaz à effet de serre dans le cadre de l'article 173-IV de la loi sur la transition énergétique pour la croissance verte (LTECV) du 17 août 2015*, Ministère de la Transition Écologique et Solidaire, Agence de l'environnement et de la maîtrise de l'énergie, September 2018.

[60] In their "assessment of the application of the provisions of Decree No. 2015-1850 dated 29 December 2015 on investors' extra-financial reporting" (i.e. a portion of economic players concerned by the obligation to produce a carbon assessment), public authorities reveal that: "Regarding the content of publications, there is a high level of heterogeneity in the publications in terms of quality, quantity, relevance and comparability. Beyond the differences in the aforementioned economic models, this heterogeneity is partly caused by the lack of maturity in the indicators and methodologies used (complex metrics, low availability of data, etc.), which are currently insufficiently reliable or mutually inconsistent. These methodological limits are particularly evident in the indication of the risks related to climate change under subparagraph 4 of article D. 533-16-1 (physical and transition-related risks), on the evaluation of the contribution to the compliance with long-term environmental objectives, namely the international objective to limit global warming and the energy and ecological transition objectives provided for in subparagraph 4 of article D. 553-16-1." p. 4. *Bilan de l'application des dispositions du décret n°2015-1850 du 29 décembre 2015 relatives au reporting extra-financier des investisseurs*, Ministère de la Transition Écologique et Solidaire – Commissariat général au développement durable, Ministère de l'Economie et des Finances – Direction générale du Trésor, Autorité des marchés financiers, Autorité de contrôle prudentiel et de résolution, June 2019.

These regulatory weaknesses are resulting in scandalous situations. For example, in its 2018 registration document, Total boasts biofuels and the La Mède site in its strategy to lower its GHG emissions. In the composition of the figure covering scope 3, the company cites the negative emissions linked to natural carbon sinks. The biofuels produced at La Mède are entered in this category, under the pretext that oil palms store carbon during their growth (classic argument used by the champions of this industry). However, the palm oil used at La Mède is responsible for deforestation in Indonesia[61] and palm oil-based biofuels generate on average three times more GHG than their conventional equivalent[62].

Safran, another example, does not hesitate to simply remove the indirect emissions from the use of its products from its Scope 3, believing that "they are accurately reported by their users in their own Scope 1 measurements[63]."

In addition, an initial ministerial evaluation of the application of article 173 subparagraph VI of the French Law on the energy transition for green growth (LTECV) - which specifically concerns portfolio managers - reveals that "*out of the 48 players covered by the analysis, 24 (50%) publish all the mandatory information required by the implementing decree, 21 (44%) do so but insufficiently in relation to the mandatory provisions of the decree, whereas 3 (6%) do not publish and do not explain why they do not do so, which is, however, required by the decree*[64]". This is for example the case for Crédit Agricole, as mentioned above. The wording of the legislation is vague, its application is lax and compliance is superficial. The "fight of the century" as stated by Emmanuel Macron, as he watched a melting glacier during his trip to the Mont Blanc range in February 2020, is far from being won.

For its part, the Pacte law enacted in 2019 provides that companies must take into consideration the social and environmental impacts of their activities, but the wording is much too vague to influence their natural vocation in a capitalist economy, namely to accumulate profits while leaving society to deal with the negative externalities, in particular those concerning the environment. As regards the French Duty of Vigilance Law, adopted in 2017, which requires that companies produce an assessment of the environmental risks incurred by their activities, it is too vague and therefore easily circumvented by interested parties. Above all, it does not oblige companies at this stage to actually mitigate these risks. Here, we are at the very heart of the "soft law"[65] strategy championed by companies and lobbies which involves replacing public regulations with private voluntary commitments, pursuant to which it is also up to companies to define performance indicators, scopes and timescales. Instead of penalising companies in breach of the rules with a budding environmental standardisation, the neoliberal lawmakers have preferred to leave it up to

[61] *Total carbure à la déforestation à la Mède*, Greenpeace France, October 2019.
[62] *Globiom: the basis for biofuel policy post-2020*, Transport&Environment, 25 April 2016.
[63] Cf 2018 Registration Document, Safran, p. 239.
[64] "Bilan de l'application des dispositions du décret n°2015-1850 du 29 décembre 2015 relatives au reporting extra-financier des investisseurs", *op. cit*.
[65] A soft law is a legislative text which simply recommends without defining a binding obligation punishable by law.

them to define the standard themselves, thereby creating a clear situation of conflict of interest, compounded by contradictory instructions (namely to accumulate profits on a competitive footing while unilaterally minimising their negative externalities, i.e. asking them to harm their own competitiveness). Finally, it is becoming impossible to assess the real effort made by an economic player and reliable comparisons are out of the question. Thereby, by refusing to regulate, to the detriment of the very rationale of public action, the State is shirking its responsibilities and finds here a convenient alibi, with guilty parties to point the finger at if the targets are not reached. However, if the State were to decide at last to regulate the private sector in view of the climate emergency, it would become officially responsible for results and more inclined to implement coherent public policies.

Lastly, the neoliberal carbon quota solution, which consists of "a market for the right to pollute" on the basis of the "polluter pays" principle[66], has to date proved to be ineffective in reducing to any significant extent the GHG emissions of covered sectors. Rather, this market appears to be a handy system which helps major companies to launder their carbon footprints. These companies benefit greatly from the free quotas made available by public authorities (the rest being auctioned, and therefore acquired by the highest bidder, thereby resulting in unfair treatment in view of the efforts to be made to tackle the climate crisis): according to the latest available figures of the Environment Ministry, "in France, in 2016, on average over industry, facilities have received free allocations commensurate with the amount of greenhouse gas they have emitted [...], industrial emissions (77.5 Mt) are in total covered up to 99 % by free allocations (76.7 Mt) in 2016". This system has also demonstrated a very relative effectiveness, as industry (4th most polluting sector in France) has only very slightly reduced its emissions since 2015, and still exceeds its allocated carbon budget (+0.6 % in 2018). In short, it is a limited scheme with rather inconclusive results, which claims to encourage companies to become more virtuous on climate issues, but is not in any way binding.

[66] Historian Jean Baptiste Fressoz reminds that: "As early as 1810, industrial players offset damage in the event of pollution. This was the emergence of the "polluter pays" principle. The freedom to produce was therefore linked from the outset to the freedom to pollute. Liberalism has incorporated environmental issues in its own way, and we are still applying these principles today. ", *Le Temps*, 7 November 2019

A government which favours dirty industries

Far from making progress in the regulation of financial markets, the government continues to remain complicit in pollution by industries. Without creating an exhaustive list, let us give a few examples that are symptomatic of this guilty *laisser-faire* attitude. Firstly, despite the promise made by the French Minister of the Economy, Bruno Le Maire, in November 2018[67] , no legislation has emerged to prohibit French banks from investing in assets that destroy the climate. In July 2019, the government urged the National Assembly to adopt the CETA free trade agreement with Canada, which destroys the climate on several counts[68] increase in trans-Atlantic trade and related emissions, non-binding environmental clauses, multinationals' control over national legislation via arbitration tribunals, reduction of standards, imports of tar sands, etc.

Above all, the government provided subsidies of €11.2 to €18.5 billion (according to the selected scope) to fossil industries in 2019[69]. In the same year, during a parliamentary debate on the 2020 budget bill, Emmanuel Macron and his government made intensive endeavours for Total and its biorefinery in La Mède, which fuels deforestation, to continue benefiting from a tax niche on palm oil representing around €80 million in public funds[70]. To say that the **climate issue has not been taken into account in budgetary decisions** would be an understatement.

The legislative vacuum surrounding the climate issue therefore results in grotesque situations, such as the voting of €20 billion for polluting multinationals during the "emergency" draft amending finance law (PLFR) of April 2020, mentioned earlier in this paper. If only the law firmly stated that these companies were subject to an obligation to reduce their annual GHG emissions, we would have been spared a debate which involves demanding piecemeal occasional counterparts, and the appalling spectacle of climate-destroying industries pocketing billions to continue to harm the planet while the state of climate emergency, voted in the September 2019 climate law, has naturally not been lifted.

As long as French law is not adjusted to the objectives of the Paris Agreement, France is exposed to the harmful influence of financial markets and industrial players which are only too happy to instrumentalise a cyclical crisis to gloss over their leading role in the development of a structural crisis.

---

[67] "Charbon : Le Maire enjoint aux banques de cesser de financer mines et centrales", *La Tribune*, 26 November 2018.
[68] "Analyse de l'étude d'impact CETA: lacunes, hypothèses irréalistes et impacts négatifs" by the Veblen Institute and the Fondation Nicolas Hulot pour la Nature et pour l'Homme, 9 July 2019
[69] "Subventions aux énergies fossiles – où sont passés les 11 milliards d'euros ?", Réseau Action Climat, 10 September 2019
[70] Greenpeace France lodged an appeal with the French Council of State for misuse of power on 17 February 2020.

An effective solution in response to climate inaction

In view of these facts, against a backdrop of climate emergency which is increasingly blatant and a health emergency, it is legitimate to ask the question: is it decent, within mature economies and “developed” countries, that there is no binding law to oblige companies to reduce their emissions and to give up the industries which are incompatible with the 1.5°C temperature rise limit at the end of the century? Is it normal to grow capital through economic activities which destroy the climate? Should the fact that shareholders collect increasing amounts of profit directly related to the destruction of the climate and of living creatures still be tolerated? Does it follow that the more a company pollutes, the more it distributes dividends, in proportion to its profits? Is it acceptable to make profits by selling out the existence of vulnerable populations and future generations? Today, **the dividends from economic activities which contribute to the climate crisis should be considered dirty money.**

As long as their shareholders can benefit freely from the climate’s destruction, companies will not change. This is simply because they need to accumulate profits to survive in a competitive environment. Today, the bond of interest between investors and climate-destroying activities must be broken urgently. It is the only way that companies can be encouraged to comply with the Paris Agreement. This means that laws are required to change the rules of the economic game, and the scope and structure of markets. This is a job for the lawmaker, the State – because it is the States and only States which have signed the Paris Agreement which are responsible for its application “across the economy”.

This is why, in response to Emmanuel Macron’s call in favour of profound and radical changes[71], and for the sake of realism and pragmatism which are key when dealing with the climate emergency, Greenpeace France is now proposing to subject, by law, companies to objectives resulting from the Paris Agreement and to prohibit the payment of dividends for those in breach of this. It is a simple, logical and coherent way to stop the financing of fossil activities and to reorganise production to adapt to the current climate crisis. Activities that damage the climate must stop being lucrative.

[71] Furthermore, the latest French National Low Carbon Strategy (SNBC) itself stresses that additional measures must be taken as a necessity so that the carbon pathways defined for the country may have a chance of actually being respected. Cf. the Integrated National Energy and Climate Plan of France, March 2020, p.6.

1. Subjecting major companies to the objectives of the Paris Agreement

The objectives of the Paris Agreement were transposed into European and then national legislation. They are applied in sectors by the French National Low Carbon Strategy and the Multiannual Energy Plan. The objectives applied today in France are broadly insufficient, in particular for the 2030 target, and are not consistent with a 1.5°C scenario. Greenpeace France is therefore demanding that these objectives are not only revised upwards, but that they apply directly to a number of economic players with high levels of emissions. The first lever involves enforcing the objectives of the Paris Agreement on major companies to oblige them to step up their transition.

More specifically, **Greenpeace France proposes that under a future major "Climate" law, companies are obliged to reduce their gross greenhouse gas emissions**[72] (direct and indirect) **each year** to achieve carbon neutrality in a timeframe in line with the work of the IPCC (i.e. 2040)[73] – therefore, excluding carbon offsetting. If the companies concerned exceeded their own annual carbon budget defined in accordance with these objectives, they would be considered by the law and the French State as "destroying the climate" (in breach of the objectives of the Paris Agreement) and would be exposed to penalties. These are simple principles. The rules of application may be extensively debated by lawmakers and could be specified by decree as regards the scope of companies concerned and the rhythm of the pathway. **We propose that the companies concerned are initially those covered by the French Duty of Vigilance Act and that the pace of annual GHG emission reduction should start at a figure greater than 7% to remain pragmatic and compliant with scientific recommendations.**

To ensure that this new approach is enshrined in a solid legal foundation, action to combat climate change should be explicitly entrenched in the Constitution and its objectives detailed in an empowering statute which defines in particular the principle of GHG emission reduction obligations for legal entities governed by private law[CS5] . When the opportunity arises for a necessary constitutional reform, it would also be useful to (**re)define free enterprise and the right of ownership, stating clearly that such freedom and right stop when environmental conservation and a sustainable climate system are compromised.**

---

[72] i.e. excluding carbon offsetting
[73] "Our house is on fire – time for the EU to step up", Greenpeace EU, 27 November 2019.

2. Auditing and certifying companies' carbon accounts

To ensure compliance with such objectives and in the interest of transparency and clarity, companies' carbon reporting must absolutely be strengthened and inspected, given the existing shortcomings. **Greenpeace France therefore proposes the creation of 1) a national body of "carbon account auditors" responsible for certification, and 2) of an independent national authority responsible for controls and sanctions, and finally that State departments be responsible for unifying the calculation method.**

On this point, economic operators must be given greater responsibilities. One solution would be to oblige companies to keep "environmental accounting" on the same model as financial accounting. Exhaustive environmental income statements and balance sheets must also be made mandatory. The idea would be to make a pre-existing system more stringent and extend it to all companies. This system is the so-called "non-core asset statement" (*états extra-patrimoniaux*) (CSR appendix in financial statements[74]) as well as the "greenhouse gas balance sheet". The system recommended is not totally new, as carbon accounting exists in the regulations: the aim is to strengthen it (because, as the law currently stands, it only enjoys a relatively ornamental function). The new features will focus on the future use of this accounting system and on reinforcing the reliability of its calculation methods.

The shortcomings of current carbon reporting

Under article L. 229-25 of the French Environment Code[75]:

> *"I. The following entities are required to establish a balance of their greenhouse gas emissions:*
> *1) Legal entities subject to private law that employ more than five hundred people (…).*
> *The entities stated in points 1 to 3 must accompany this balance with a transition plan to reduce their greenhouse gas emissions. This plan must set out the objectives, means and actions planned to achieve this goal*

[74] V. On this appendix: articles L. 225-102-1 and R. 225-105 of the French Commercial Code
[75] Here, we are quoting the version to enter into force on 09 November 2020.

and, where necessary, the actions implemented during the previous balance assessment.
This greenhouse gas emissions balance and this transition plan are to be disclosed. They are to be updated every four years for the entities stated in points 1 and 2 (…).

II. The legal entities subject to these proceedings must provide the administrative authority with the information concerning the implementation of this obligation by email.
The data disclosed is used by the administrative authority for statistical purposes (…).

III. Under the conditions set by decree in the Council of State, the administrative authority may apply a penalty in the event of breaches in the establishment or disclosure of the greenhouse gas emissions balance in the form of a penalty of an amount up to €10,000, and up to €20,000 in the event of renewed breaches".

The carbon compatibility system applicable to economic players is currently suffering from two major shortcomings:

a) Firstly, this greenhouse gas emissions balance is not part of a binding framework, as it only necessary every four years, and it is not specified that it must be part of the Paris Agreement framework. In other words, the company is not required to define a pathway that would allow third parties to check that it is taking its share of responsibility in the national objective. The law itself states that the only aim that the legislator sets itself in the establishment of such data is a "statistical study".

b) Secondly, the penalties are trivial. They only concern the establishment of the balance. A poorly established balance and an uninspected pathway are not subject to penalties. Moreover, the maximum amount of the penalty does not exceed the cost of commissioning a specialist company to establish a carbon balance assessment.

We propose the creation of a new profession, endowed with specific expertise and governed by a strict code of ethics: carbon account auditors. Based on the model of statutory auditors, they would be tasked with certifying companies' carbon accounts, according to a single methodology that is regulated clearly by the State. These carbon account auditors would have to certify each year the results of companies required to publish their carbon accounts (i.e. those listed on the stock market and those with more than 500 employees and recording turnover of more than €100 million).

A new body of officials working within an independent administrative authority would also need to be created. Their role would be, based on the model of the financial markets authority, to inspect companies and to launch investigations where required, to impose administrative penalties (prohibition of dividend payments, collection of unduly allocated amounts and fines), and to send the case to the prosecutor's office for criminal proceedings where necessary.

In addition, third parties (such as associations) should be guaranteed access to the data collated by these auditors in order to prevent any risk of lack of transparency or conflicts of interest.

Creating a scope 4 to complete carbon balances

For Greenpeace France, not only is it necessary to incorporate scrupulously scope 3 into companies' carbon balance accounting, but a scope 4 must be created. With a qualitative rather than quantitative value, scope 4 would cover all financial, social and cultural valuation activities which are harmful to the climate (e.g.: advertising for vehicles which pollute such as SUVs, financial investments and event partnerships with oil or air companies, etc.). A company which provides services, under scope 4, for companies deemed climate-destroying would also be considered to be climate-destroying and would be prohibited in turn from paying out dividends - if Publicis were to sell advertising to Total, for example.

3. Freezing the dividends of climate criminals

Companies which, upon inspection of their carbon account, appear to be destroying the climate, would be subject to a penalty system based on the **prohibition of the payment of external dividends** (employees in share ownership schemes would not be concerned by this prohibition, as these results are above all the fruit of their work). The financial assets invested in climate-destroying economic activities would therefore rapidly lose value[76] (the corresponding fall in share prices would turn them into "stranded assets") and the State shareholder would be even more careful to guide companies towards carbon neutrality. Profits unduly paid to shareholders as dividends or share buy-backs would be assigned, after tax adjustment, to a special account of the Caisse des Dépôts et Consignations to be redirected exclusively to the ecological transition (and not assigned to the State's general budget)[77]. Here, the remediation mechanism would not be based on private diligence (no liability cases or invalidity proceedings, no actions for damages, no carbon account commissioner, or at least not "on the front line"). It is the Minister for the Ecological and Inclusive Transition that should in this case be responsible.

To enshrine this prohibition in French legislation, several texts would need to be amended, starting with the French Environment Code, for example in time for the effective application of the Paris Agreement during the COP 26 (postponed to 2021)[78]. Following a reminder of the commitment made by France under the Paris Agreement[79], the Code must state the notion that companies are full participants in the process launched by the State and, as a result of that, their obligations must be specified.

The idea is therefore to adopt a "pyramid" approach, presenting the company's obligation to refrain from paying dividends in the event of non-compliance with the "Climate" law on its level, like a local transposition of the international, European and national standard.

---

[76] Along these lines, it can be stressed that BlackRock, the largest financial fund in the world, lost $90 billion over the last ten years due to its financial exposure to fossil fuels. (cf *"La colossale empreinte carbone des banques : une affaire d'État"*, report by Oxfam and Friends of the Earth France, November 2019). Since 2014, the financial value of one of the major global oil companies, ExxonMobile, dropped by $184 billion (but did not stop the top 5 global oil companies from publishing record profits in 2018, €70.4 billion).

[77] Let's remember that the revenues from the carbon tax were from the outset designed as the complement to be used to finance employer charges exemptions via the CICE tax credit, and that this approach appears to have been revived by Emmanuel Macron, as revealed by Macron Leaks. In any case, revenues from ecological taxation are currently assigned to the State's general budget, rather than being redirected to the ecological transition.

[78] The COP 26 marks the end of the first cycle and the start of a second (5 years). In addition, the implementation phase of the NDCs (Nationally Determined Contributions) started in 2020. As a result, the COP 26 will play a part in realigning the NDCs with science before starting a new cycle, and finalising the rules of application of the Paris Agreement (mainly art. 6).

[79] The Paris Agreement was ratified by France under a law dated 15 June 2016.

Glossary

Caisse des Dépôts et Consignations: a public financial institution which conducts various financial roles to serve the general interest, under State control.

Carbon budgets: they define the quantity of CO_2 that must not be exceeded. In France, there are carbon budgets for the major economic sectors (transportation, agriculture, housing, industry, energy generation, waste), defined per five-year period by the French National Low Carbon Strategy (SNBC).

Dividends: a financial payment from a company to a shareholder.

Financial assets: a security or contract which enables the holder to receive a financial reward (a capital gain) in exchange for the risk taken (the choice of investment).

French National Low Carbon Strategy (SNBC): France's roadmap for mitigating climate change. It sets the GHG emission reduction objectives per sector and specifies the levers implemented by public authorities to achieve them.

Investments: used to increase capital volume (of various kinds) owned by an economic entity, with a view to improving its yield (by anticipating the related capital gains).

Shareholder: a shareholder is the owner of a transferable security, a share, issued by the company. This acquisition of part of the company's capital affords the shareholder certain prerogatives on its operation (the importance of which varies according to the volume of the capital share owned).